

The Honorable Robert J. Bryan

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

C.P., by and through his parents, Patricia
Pritchard and Nolle Pritchard; and
PATRICIA PRITCHARD,

Plaintiffs,

v.

BLUE CROSS BLUE SHIELD OF
ILLINOIS,

Defendant.

NO. 3:20-cv-06145-RJB

DECLARATION OF ELEANOR
HAMBURGER IN SUPPORT OF
PLAINTIFFS' MOTION FOR CLASSWIDE
DECLARATORY AND PERMANENT
INJUNCTIVE RELIEF, AND AWARD OF
INDIVIDUAL NOMINAL DAMAGES TO
NAMED PLAINTIFFS

**Note on Motion Calendar:
March 3, 2023**

I, Eleanor Hamburger, declare under penalty of perjury and in accordance with
the laws of the State of Washington and the United States that:

1. I am a partner at Sirianni Youtz Spoonemore Hamburger and am one of
the attorneys for plaintiff class in this action.

2. I understand that plaintiffs in the *Wit v. United Behavioral Health* case intend
to seek *en banc* review of recent Ninth Circuit panel decision. *Id.*, 2023 U.S. App. LEXIS
2039, at *28 (9th Cir. Jan. 26, 2023).

3. At the Rule 30(b)(6) deposition of Telisa Drake, on behalf of Blue Cross
Blue Shield of Illinois, I asked Ms. Drake whether BCBSIL intended to continue to allow

1 the ERISA self-funded health plans with which it contracted to exclude gender affirming
 2 care. She responded yes. Attached as *Exhibit A* to this declaration is a true and correct
 3 excerpt of the Rule 30(b)(6) deposition of Telisa Drake on behalf of BCBSIL, taken on
 4 May 13, 2022, reflecting her testimony at p. 165:8-18, with relevant portions highlighted
 5 for the Court's convenience.

6 4. Attached as *Exhibit B* to this declaration is a true and correct copy of a
 7 communication Ms. Pritchard received from a representative of BCBSIL regarding her
 8 ability to appeal a "non-covered benefit." This document was produced in discovery
 9 and used by BCBSIL in Ms. Pritchard's deposition. Relevant portions have been
 10 highlighted for the Court's convenience.

11 5. Attached as *Exhibit C* to this declaration a true and correct copy of the
 12 denial letter Ms. Pritchard received after the submission of the internal appeal regarding
 13 the denial of C.P.'s pre-service determination of his second Vantas implant and chest
 14 surgery. Relevant portions have been highlighted for the Court's convenience and
 15 personal identifiers have been redacted.

16 DATED this 9th day of February, 2023 at Seattle, Washington.

17
 18 /s/Eleanor Hamburger

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